



Digging into DC

How to find almost everything
you've ever wanted to know about
DC government

D. C. Open Government Coalition

The Coalition was established in 2009.

Early activities included advocacy for the Open Meetings Act that passed in 2010.

The Coalition also has pressed for the Office of Open Government to enforce the Open Meetings Act, review FOIA implementation and generally lead transparency work throughout the executive branch.

In 2015, the Coalition provided research on privacy and access to police video nationwide, leading to the Council adopting the most open access anywhere.

D. C. Open Government Coalition

In 2019 the Coalition and others successfully opposed drastic changes to D.C. FOIA, the open records law, and advocated for expanding its coverage to include charter schools.

In 2020 the D.C. Council voted to apply the Open Meetings Act to trustees' meetings at D.C. charter schools, as the Coalition and community partners had urged for years.

Following years of advocacy, in 2021 the Police Reform Commission recommended and the D.C. Council Chairman introduced legislation to open police discipline records.

Questions? Diggingintodc@gmail.com

Digging into DC

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Moderator

Some open records basics

If something is enforced, inspected, licensed, or purchased, there is probably a public record.

The screenshot shows a web browser at the URL dcra.dc.gov/page/permit-records. A red banner at the top contains a notice: "As a reminder, construction is not permitted on federal and District Government holidays including January 18 and 20 in observance of Martin Luther King Jr. Day and Inauguration Day." Below the banner is the DCRA logo and a navigation menu with links for RESIDENTS, BUSINESSES, RESOURCES & TOOLS, ABOUT US, and CONTACT US. A search bar is also present. The main content area is divided into a left sidebar and a main section. The sidebar lists various business-related categories, with "Permit Records" highlighted. The main section, titled "Permit Records", contains a paragraph explaining that users can find records from home and lists four options: "View DCRA Records Online (eRecords)", "Search for Digital Land Records (SurDocs)", "Visit DC Property & Permit Center", and "Check your Permit Application Status (SCOUT)". Each option is followed by a plus sign icon.

dcra.dc.gov/page/permit-records

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coronavirus.dc.gov

dcra

RESIDENTS BUSINESSES RESOURCES & TOOLS ABOUT US CONTACT US

SEARCH...

Businesses

- Business Registration
- ▶ Licensing Services for Businesses
- ▶ Inspections
- Professional Licensing
- Permitting
 - ▶ Get a Permit
 - ▶ Plan Reviews
- Permit Records**
- ▶ Energy and Green Building
- Small Business Resources
- Enforcement Action
- Vacant Buildings

Permit Records

Looking for specific Permit Records? Save yourself a trip and get any record from the comfort of your home. Don't see what you're looking for? No Worries! Below you will find a few options to locate the records you are searching for.

- View DCRA Records Online (eRecords)** +
- Search for Digital Land Records (SurDocs)** +
- Visit DC Property & Permit Center** +
- Check your Permit Application Status (SCOUT)** +

Digging into DC : What is FOIA

- The Freedom of Information Act (FOIA) is a District of Columbia law that gives the public the right to access information from the DC government.
- Under FOIA, DC Agencies must release information that is requested, unless that information is protected from disclosure.

Digging into DC: Who handles FOIA requests?

- Each DC agency processes its own records.
- DC has a portal for submitting requests
<https://foia-dc.gov/>
- DC FOIA does not require agencies to do research, analyze data, answer written questions, or create records.
- FOIA only requires the agency to make a reasonable effort to locate **already existing records.**

Digging into DC: How to submit a FOIA

- ▶ A FOIA request may be submitted via the DC government Public FOIA Portal. Requests may also be submitted by mail, fax, or email to the DC Agency FOIA Officer or Agency Director.
- ▶ A List of FOIA Officer is maintained on OOG's website open-dc.gov, if you need a FOIA Officer's contact information:
<https://www.open-dc.gov/dc-foia-officer-contact-information>
- ▶ If submitting your request by mail, fax, or email, please mark the outside of the envelope or the subject line of the fax or email: "**Freedom of Information Act Request**" or "**FOIA Request.**" Please include **a daytime telephone number, email address** or mailing address in your request letter so that the FOIA Officer may contact you if necessary.

Digging into DC: Sample FOIA request

FOIA REQUEST FOR RECORDS

SAMPLE E-MAIL

Dear [Name of FOIA Officer]:

I am making a FOIA request for an inspection report number 12345, made by the Department of Consumer and Regulatory Affairs, at 123 Main Street, NW, Washington, DC, on or about June 1, 2019. I am requesting the full report and the photographs (exhibits) attached to the report. I am asking for a waiver of fees in the public interest, as I am representing my Homeowner's Association.

Sincerely,

Jane Resident

janeresident@gmail.com

Mobile: 202-555-8888

I have a question about my child's school. Where do I go for information?

D.C., and every state has some type of open records law, commonly referred to as Freedom of Information Act (FOIA), or Open Records Law.

But first - try to get information the old fashioned way. Ask the school administrator or secretary, or your child's teacher. The information you want already may be out in the public, and easy to obtain.

If that doesn't work, you can file an open records request for many types of information from D.C. Public Schools. Charter schools, which are publicly funded, are less open and may be harder to get the information you are seeking.

Digging into DC: When will they get back to me?

- For records other than body worn camera footage: **15** business days [D.C. Official Code § 2-532(c)(1)]
- For body-worn camera recordings: **25** business days. [D.C. Official Code § 2-53

BUT: this may only be an acknowledgement that they are looking for what you requested. The agency can ask for a 10 day extension if there are “unusual circumstances.

“Unusual circumstances are defined in D.C. Official Code § 2-532(d)(2) as:

- The need to search for, collect, and appropriately examine a **voluminous amount of separate and distinct records** that are demanded in a single request;
- The **need for consultation**, which shall be conducted with all practicable speed, with **another public body** having a substantial interest in the determination of the request or among 2 or more components of a public body having substantial subject-matter interest therein;

Digging into DC: Where to go for help

DC Office of Open Government provides advice to agencies, members of public bodies, and the public on the open meetings act and the freedom of information act.

202-481-3411

opengovoffice@dc.gov

DC Open Government Coalition (non-profit, not government)

Our board members include lawyers and other open government experts who can help you.

info@dcogc.org

202-780-6020

AGENCY'S RESPONSE

WHAT IS THE CONSEQUENCE OF NOT RESPONDING TO A FOIA REQUEST ON TIME?

- ▶ D.C. Official Code 2-532(e) provides that failure to timely respond to a FOIA request is **deemed a denial** of the request.
- ▶ A requester can appeal the denial to the Mayor or to Superior Court. [D.C. Official Code § 2-537; 1 DCMR 412.1.]
- ▶ E-mail appeals to foia.appeals@dc.gov

Or Mail to:

Mayor's Office of Legal Counsel
FOIA Appeal
1350 Pennsylvania Ave, NW
Suite 407
Washington, DC 20004



FOIA EXEMPTIONS MAY APPLY

- ▶ A DC agency may not disclose every record you request. Statutory exemptions authorize the withholding of certain public records.
- ▶ When the public body does withhold records or portions of records, it must specify which exemption of the FOIA permits the withholding.

FOIA EXEMPTION - FERPA

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

- ▶ FERPA is a Federal law that protects the privacy of student education records. Those records are exempted from release under DC FOIA.
- ▶ FERPA does give **parents** certain rights respecting their own children's education records. Those rights transfer to the child when the child turns 18 years old.

FEES

- ▶ There is NO FEE to submit a FOIA Request.
- ▶ There are fees for searching, reviewing, and reproducing records.
- ▶ An Agency may charge a FOIA requester fees even if the search does not locate responsive records or an exemption applies.



FEES

- ▶ Records may be furnished without charge or at a reduced charge where a public body determines that waiver or reduction of the fee **is in the public interest** because furnishing the information can be considered as primarily benefiting the general public. (D.C. Official Code § 2-532(b)).



FEES

- ▶ For **Educational, noncommercial scientific, and the news media**, an agency may only charge duplication costs.
- ▶ An agency may charge **commercial requesters** for search, review and duplication costs.
- ▶ An agency may charge **all others** fees for search and duplication costs incurred by the agency.



FEES



- ▶ Searching for records: \$16.00 to \$40.00 per hour based on the pay grade of the personnel who performs the search with the first hour free.
- ▶ Charges for initial review of documents: \$16.00 to \$40.00 per hour based on the pay grade of the personnel who performs the search with the first hour free.
- ▶ Photocopies: \$0.25 per page.
- ▶ Document certification: \$1.00 per document to certify a document as a true copy of an agency record.
- ▶ The direct cost of any service or material for which no fee has been established.

[See DC Official Code § 532 and 1 DCMR § 408]

DECISION LETTERS

WHAT IS REQUIRED IN AN AGENCY DECISION LETTER?

The agency decision letter should contain the following information:

1. Whether the record was released in full, partially released (redacted), or withheld in full;
2. The name and contact information of the person that made the decision concerning the release of records;
3. A reference to the D.C. Code provision that is the basis of the decision; and
4. A statement advising the requester of appeal rights.

THANK

YOU!